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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT
W.D.N.Y. - BUFFALO

WILFREDO MARQUEZ,

Plaintiff,

05-CV-0016A

-v-

MEMORANDUM and ORDER

C.O. CORCAN, Sergeant, C.O. BERBERRY, Sergeant,
YACKEREN, C.O., and DYLAG, C.O.,

Defendants.

On July 16, 2005, the Court entered an Order dismissing the amended complaint against James Conway, and directing the Clerk of the Court to cause the U.S. Marshals Service to serve copies of the summons and amended complaint (Docket No. 7) on defendants Attica Correctional Facility Sergeants Corcan and Berberry, and Attica Correctional Facility Correctional Officers Yackerren and Dylag. On April 20, 2007, the Court entered an Order directing plaintiff to show cause why the action should not be dismissed pursuant to Fed.R.Civ.P. 4(m) for plaintiff's failure to effect service of process. (Docket No. 12).

On April 23, 2007, plaintiff filed a response to the Order indicating that he never received the necessary U.S. Marshals Service Process Receipt and Return Forms (USM-285), which should have been forwarded to him by the Clerk of the Court upon entry of the Order directing service of the summons and amended complaint. (Docket No. 13).

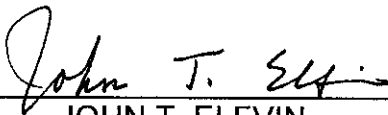
Accordingly, the Court finds that plaintiff has shown good cause why service was not effected pursuant to Fed.R.Civ.P. 4(m), and the Clerk of the Court is again directed to

cause the U.S. Marshals Service to serve the summons, amended complaint (Docket No. 7), this Order and the Order, entered July 18, 2005 (Docket No. 9), on defendants Attica Correctional Facility Sergeants Corcan and Berberry, and Attica Correctional Facility Correctional Officers Yackeren and Dylag.

Pursuant to 42 U.S.C. § 1997e(g)(2), the defendants are directed to answer the amended complaint.

SO ORDERED.

DATED: Buffalo, New York
June 6, 2007



JOHN T. ELFVIN
UNITED STATES DISTRICT JUDGE